

ITEM # _____

PREPARED BY: Mary Baker - OPD

APPROVED BY: _____

JOINT ZONING ORDINANCE NO. _____

JOINT ORDINANCE AND RESOLUTION (ZTA 08-001 CC) AMENDING THE JOINT MEMPHIS AND SHELBY COUNTY ZONING ORDINANCE – REGULATIONS ADOPTED BY THE SHELBY COUNTY BOARD OF COMMISSIONERS ON OCTOBER 6, 1980, AND THE CITY COUNCIL OF THE CITY OF MEMPHIS ON OCTOBER 7, 1980, BEING RESOLUTION AND ZONING ORDINANCE NO. 3064, AS AMENDED, SO AS TO MAKE CERTAIN CHANGES THEREIN AS FOLLOWS:

AMEND THE ZONING REGULATIONS TO ADOPT DEFINITIONS FOR FINANCIAL SERVICES, PAYDAY LOAN ESTABLISHMENTS, AND TITLE LOAN ESTABLISHMENTS AND TO CREATE NEW USE CATEGORIES FOR PAY DAY LOAN ESTABLISHMENTS AND TITLE LOAN ESTABLISHMENTS AND TO ESTABLISH LOCATION AND DISTANCE SEPARATION REQUIREMENTS FOR PAYDAY, AND TITLE LOAN ESTABLISHMENTS. SPONSORED BY COMMISSIONER MIKE CARPENTER

WHEREAS, there exist business lending practices, commonly referred to as “payday” lending practices, whereby lending businesses advance money on paychecks; and

WHEREAS, there exist business lending practices, commonly referred to as “title loan” establishments, whereby the lending businesses advance short term loans to an applicant which are typically secured by the applicant’s car title; and

WHEREAS, the Shelby County Board of Commissioners and the Memphis City Council feel it is necessary to address the concentration of these entities within the Shelby County and the City of Memphis and assist some of the most distressed sections of the City and County; and

WHEREAS, the existing Memphis and Shelby County Zoning Ordinance, does not specifically address payday, or title loan establishments; and

WHEREAS, it is deemed appropriate and in the best interest of the citizens to amend the Memphis and Shelby County Zoning Ordinance to include definitions, use categories, permitted location, and separation requirements for payday and title loan establishments; and

WHEREAS, these amendments were on the October 9, 2008, agenda of the Memphis and Shelby County Land Use Control Board for its consideration in accordance with the Joint Memphis and Shelby County Zoning Ordinance - Regulations section 6 and were unanimously recommended for approval by the Land Use Control Board.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners and the Memphis City Council that the Joint Memphis and Shelby County Zoning Ordinance - Regulations be amended as follows:

SECTION 1. That Section 2, Interpretations and Definitions, of the Joint Ordinance and Resolution set out in the caption hereof and the same is hereby amended by adding the following definitions:

FINANCIAL SERVICES: Any building, room, space or portion thereof where an establishment provides a variety of financial services, including generally, banks, credit unions, industrial loan and thrift, savings and loan, and mortgage companies. Financial services do not include title loan and payday loan establishments.

PAYDAY LOAN ESTABLISHMENT: Any building, room, space or portion thereof where a person, company, or other legal entity makes or facilitates a deferred presentment service, such that the person, company or legal entity provides currency or a payment instrument in exchange for a person’s check or agreement to provide access to a drawer’s account in a financial institution and agrees to hold that person’s check for a period of time prior to presentment, deposit, or redemption or facilitates this process. Payday loan establishments include persons or businesses licensed under Title 45,

Chapter 17, of the Tennessee Code Annotated.

TITLE LOAN ESTABLISHMENT: Any building, room, space or portion thereof where a person, company, or other legal entity engaged in the business of making loans in exchange for possession of the certificate of title to property or a security interest in titled property. Title loan establishments include persons or businesses licensed under Title 45, Chapter 15, of the Tennessee Code Annotated.

SECTION 2. That Appendix A, Zoning, Chart 1. Uses Permitted in Zoning Districts is hereby amended by adding the uses depicted in Attachment A.

SECTION 3. That Appendix A, Zoning, Chart 1 is hereby amended by adding Footnote 24 to read as follows:

Use Standards for Payday Loan and Title Loan Establishments

The governing bodies find that it is appropriate and in the best interest of the citizens to amend the Memphis and Shelby County Zoning Ordinance. The following standards shall apply to all payday lenders and title loan establishments.

1. It shall be a violation of the zoning ordinance-regulations of the City of Memphis and Shelby County for a person, corporation, or other legal entity to operate or cause to be operated any payday loan or title loan establishment within one thousand (1,000) feet of any other establishment offering payday loans or title loans.
2. It shall be a violation of the zoning ordinance regulations of the City of Memphis and Shelby County for a person, corporation or other legal entity to operate or cause to be operated any payday loan or title loan establishment within 1,320 feet or ¼ mile from the boundary of a residential or landmark district.
3. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest property line of the premise where the payday loan or title loan establishment is located, to the nearest property line of the premises of any other payday loan, or title loan establishment.

SECTION 4. The owner of any payday loan establishment or title loan establishment desiring to change locations within ninety (90) calendar days of the adoption of this ordinance may make application to the Office of Planning and Development for an expedited waiver of the special use permit requirement. The application for change of location into an existing structure shall include but not be limited to: general contact and ownership information; aerial image of the entire property generated from the Shelby County Register of Deeds; and a vicinity map of the proposed location. The application for a change of location into a newly constructed structure shall include but not be limited to: general contact and ownership information; aerial image of the entire property generated from the Shelby County Register of Deeds; a detailed site plan; and a vicinity map of the proposed location. The Office of Planning and Development shall within ten (10) days of the date of such application or prior to the next regularly scheduled meeting of the City Council or the County Commission, as the case may be, present to the City Council or County Commission at the next meeting of the legislative body the application with the Office of Planning and Development's report. No waiver applications for payday loan establishments or title loan establishments may be accepted by the Office of Planning and Development ninety (90) days after the effective date of this ordinance.

SECTION 5. In case of conflict between this Ordinance or any part thereof, and the whole or part of any existing or future Ordinance of the City of Memphis or Shelby County, Tennessee, the most restrictive shall in all cases apply.

SECTION 6. That the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts is held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 7. Be it further resolved and ordained, that the Joint Ordinance take effect from and after the date it shall have been enacted according to due process of law, and thereafter shall be treated as in full force and effect in the jurisdiction subject to the above mentioned Ordinance by virtue of the concurring and separate passage thereof by the Council of the City of Memphis and by the Shelby County Board of Commissioners.

DEIDRE MALONE., Chairman

Date:_____

A C WHARTON, JR., County Mayor

Date:_____

ATTEST:

ADOPTED:
1st Reading _____/_____/_____

2nd Reading _____/_____/_____

3rd Reading _____/_____/_____

Attachment A

Uses Permitted

	O-G	C-L	C-H	I-L	IH
Payday Loan Establishment	S	S	S	X	X
Title Loan Establishment	S	S	S	X	X

X = Use permitted by right;
S = Use requiring legislative plan review and approval subject to the issuance of a special use permit in accordance with the provisions of sections 8 and 9 of this article;